

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH SPEIGHTS,

Plaintiff,

-against-

THE CITY OF NEW YORK; POLICE
OFFICER BRIAN MULKEEN; POLICE
OFFICERS JOHN and JANE DOE 1-10.

Defendants.

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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

5. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1367.

JURY DEMAND

6. Plaintiffs demand a trial by jury in this action.

PARTIES

7. Plaintiff Joseph Speights (“plaintiff”, “Mr. Speights”) is a resident of Bronx County in the City and State of New York.

8. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

9. Defendant Police Officer Brian Mulkeen, (“Mullkeen”) at all times relevant herein, were officers, employees and agents of the NYPD. Defendant Mullkeen is sued in his individual and official capacities.

10. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

11. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of defendant City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

12. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

13. On February 23, 2014 at or about 9:01 p.m., plaintiff was lawfully in a vehicle in the vicinity of Third Avenue and East 178th Street in Bronx, NY.

14. Plaintiff, along with his lady-friend Marine, and numerous other relatives, were driving home from Fishkill, NY. They had been visiting Mr. Speight's mother who was in a nursing home.

15. Marine, who was the driver and owner of the vehicle, was becoming weary and pulled over to the side of the road.

16. Marine's keys were in the car's ignition. They include the keys to her home as well as a "pink" canister of what is allegedly mace

17. Marine, Plaintiff, and Plaintiff's daughter Shakia Romollie, all exited the vehicle to discuss who next would drive.

18. Several police officers, including defendants, pulled up behind Marine's car with sirens on.

19. The defendants, including Mullkeen, instructed Mr. Speights to remove the keys from the car's ignition. Mr. Speight, from outside the vehicle, reached through the window, turned the car off and removed the keys.

20. The defendant's then took the keys from Mr. Speights. When Mr. Speights questioned the defendants' motivation, he was told that he was going to be taken to the precinct and given a Desk Appearance Ticket.

21. Once at the precinct, plaintiff asked for his arresting officer's name, explaining his intention to make a complaint to the Civilian Complaint Review Board.

22. Plaintiff was told if that is how he "wants it" he "will be going through the system."

23. Ultimately plaintiff was taken to Central Booking, arraigned and released.

24. All charges against plaintiff were ultimately dismissed.

25. Notwithstanding plaintiff's lack of criminal conduct, defendant officers misrepresented to the Bronx County District Attorney's Office that Plaintiff had committed, resisting arrest and other related crimes.

26. Plaintiff was deprived of his liberty, assaulted, battered, suffered emotional distress, mental anguish, pain, fear, anxiety, embarrassment, humiliation, damage to their reputation and loss of income.

FIRST CLAIM
42 U.S.C. § 1983

27. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

28. Defendants, by their conduct toward plaintiffs alleged herein, violated plaintiffs' rights guaranteed by 42 U.S.C. § 1983, the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

29. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

SECOND CLAIM
False Arrest

30. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

31. Defendants violated the Fourth and Fourteenth Amendments because they arrested Plaintiffs without probable cause.

32. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

THIRD CLAIM
Failure To Intervene

33. Plaintiff repeats and re-alleges each and every allegation as if fully set forth herein.

34. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

35. Accordingly, the defendants who failed to intervene violated the First, Fourth, Fifth And Fourteenth Amendments.

36. As a direct and proximate result of this unlawful conduct, Plaintiffs sustained the damages hereinbefore alleged.

FIFTH CLAIM
Malicious Prosecution

37. By their conduct, as described herein, and acting under color of state law, defendants are liable to plaintiff under 42 U.S.C. § 1983 for the violation of his constitutional right to be free from malicious prosecution under the Fourth and Fourteenth Amendments to the United States Constitution.

38. Defendants' unlawful actions were done willfully, knowingly, with malice and with the specific intent to deprive plaintiff of his constitutional rights. The prosecution by defendants of plaintiff constituted malicious prosecution in that there

was no basis for the plaintiff's arrest, yet defendants continued with the prosecution, which was resolved in plaintiff's favor.

39. As a direct and proximate result of defendants' unlawful actions, plaintiffs have suffered, and will continue to suffer, damages, including physical, mental and emotional injury and pain, mental anguish, suffering, humiliation, embarrassment and loss of reputation.

SIXTH CLAIM

Denial Of Constitutional Right To Fair Trial

40. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

41. The individual defendants created false evidence against Plaintiff.

42. The individual defendants forwarded false evidence to prosecutors in the Kings County District Attorney's office.

43. In creating false evidence against Plaintiff, and in forwarding false information to prosecutors, the individual defendants violated Plaintiff's constitutional right to a fair trial under the Due Process Clause of the Fifth and Fourteenth Amendments of the United States Constitution.

44. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SEVENTH CLAIM

Malicious Abuse Of Process

45. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

46. The individual defendants issued legal process to place Plaintiff under arrest.

47. The individual defendants arrested Plaintiff in order to obtain collateral objectives outside the legitimate ends of the legal process, to wit, to cover up their assault of him.

48. The individual defendants acted with intent to do harm to Plaintiff without excuse or justification.

49. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully requests judgment against defendants as follows:

- i. Compensatory damages against all defendants, jointly and severally;
- ii. Punitive damages against the individual defendants, jointly and severally;
- iii. Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- iv. Such other and further relief as this Court deems just and proper.

DATED: February 3, 2015
New York, New York

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